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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,188	01/28/2000	Hidehiro Ishii	P7156-9071	1906
4372	7590	01/03/2006	EXAMINER	
ARENT FOX PLLC 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			PATEL, GAUTAM	
			ART UNIT	PAPER NUMBER
			2656	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/493,188

Applicant(s)

ISHII ET AL.

Examiner

Gautam R. Patel

Art Unit

2656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 47-61 and 67-71 is/are allowed.
- 6) ☐ Claim(s) 7-46 and 62-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Response to Amendment**

1. This is in response to amendment filed on 11-30-05.
2. claims 7-71 remain for examination.

***Claim Rejections - 35 U.S.C. § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 7-46 and 62-66 are rejected under 35 U.S.C. § 102(e) as being anticipated by Heo, US. patent 6,167,192 (hereafter Heo).

As to claim 7, Heo discloses the invention as claimed [see Figs. 2-20 especially 2-8 and 14] including a video data recording area, a video manager recording area and control information indicating audio data intermingled from different recording modes, comprising:

a video data recording area [fig. 2, VOBs] on which an audio stream containing audio data is recorded [col. 4, line 36 to col. 5, line 41]; and

a video manager recording area [fig. 2, VMGI] located in a different position from the video data recording area in a direction of a diameter of the recording medium, in which control information is recorded.

wherein the control information includes application information indicating whether or not the audio stream recorded in the video data recording area contains audio data intermingled from different recording modes as one stream [col. 4, line 36 to col. 5, line 41].

4. The aforementioned claim 8, recites the following elements, inter alia, disclosed in Heo:

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the recording modes include monaural audio [mono], multi-channel [multichannel] audio and multiplexed [stereo] audio [col. 6, line 31 to col. 7, line 12; col. 16, lines 1-10].

NOTE: Stereo is a type of multiplexed audio.

5. The aforementioned claim 9, recites the following elements, inter alia, disclosed in Heo: the audio stream contains multiplexed audio data [col. 6, line 31 to col. 7, line 12].

6. The aforementioned claim 10, recites the following elements, inter alia, disclosed in Heo: the multiplexed audio data consists of a plurality of audio channels and contains multiple language data [col. 16, lines 1-10] in different audio channels [col. 5, Table 2; col. 9, lines 27-30; and col. 25, lines 1-63].

NOTE: sub-picture stream contains the language information for different audio channels.

7. The aforementioned claim 11, recites the following elements, inter alia, disclosed in Heo: the audio stream further contains multi-channel audio data, and wherein the application information indicates that the audio stream contains the audio data with different recording modes [col. 5, lines 19-43; Table 1].

8. The aforementioned claim 12, recites the following elements, inter alia, disclosed in Heo: the control information further includes number information indicating a number of audio channels in the audio stream [col. 5, line 6 to col. 6, line 10; Fig. 4 & 5; VTS\_AST\_Ns & VTS\_AST\_ATR].

9. The aforementioned claim 13, recites the following elements, inter alia, disclosed in Heo: the control information further includes number information specifying one of the recording modes [col. 5, line 6 to col. 6, line 10; Fig. 4 & 5; VTS\_AST\_Ns & VTS\_AST\_ATR].

10. The aforementioned claim 14, recites the following elements, inter alia, disclosed in Heo: the control information further includes rate information [sampling frequency] indicating a bit rate of the audio data [col. 9, lines 56-62; col. 10, lines 67; TABLE 21].

11. The aforementioned claim 15, recites the following elements, inter alia, disclosed in Heo:  
a recording device [fig.14, unit 104] which records audio data in a video recording area of the recording medium as an audio stream; and

a generating device [fig.14, unit 102] which generates control information in video manager recording area located in a different position from the video data recording area in direction of a diameter of the recording medium,

wherein the recording device records the control information in a video manager recording area located in different position from the video data recording area in a direction of a diameter of the recording medium [col. 4, line 36 to col. 5, line 41 & col. 15, lines 23-50].

12. As to claims 16-22, they are claims corresponding to claims 8-14 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 8-14 respectively, supra.

13. The aforementioned claim 23, recites the following elements, inter alia, disclosed in Heo:  
a reading device [fig. 14, unit 104] which reads the control information from the second recording area of recording medium; and

a controller [fig. 14, unit 104] which controls the reproduction of the audio data recorded on the first recording area of the medium based on the control information [col. 4, line 36 to col. 5, line 41 & col. 15, lines 23-50].

14. The aforementioned claim 24, recites the following elements, inter alia, disclosed in Heo:  
the recording modes include monaural audio [mono], multi-channel [multichannel] audio and multiplexed [stereo] audio [col. 6, line 31 to col. 7, line 12].

NOTE: Stereo is a type of multiplexed audio.

15. The aforementioned claim 25, recites the following elements, inter alia, disclosed in Heo:  
the audio stream contains multiplexed audio data [col. 6, line 31 to col. 7, line 12].

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16. The aforementioned claim 26, recites the following elements, inter alia, disclosed in Heo the multiplexed audio data consists of a plurality of audio channels and contains multiple language data in different audio channels [col. 6, line 31 to col. 7, line 12].

the system further comprising operating device [fig. 14, unit 110] for selecting one of the multiple language data, wherein the controller controls the reproduction of the audio data such that only the selected [audio selection switch] one of the multiple language data is reproduced [col. 15, line 23 to col. 16, line 17].

17. As to claims 27-30, they are claims corresponding to claims 11-14 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 11-14 respectively, supra.

18. As to claims 31-38, they are method claims corresponding to claims 7-14 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 7-14 respectively, supra.

19. As to claims 39-46, they are method claims corresponding to claims 23-30 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 23-30 respectively, supra.

20. The aforementioned claims 62-66, recites the following elements, inter alia, disclosed in Heo

the video manger recording area is located inward of the video data recording area [fig. 2-3 and col. 4, line 36 to col. 5, line 41].

21. Applicant's arguments filed on 11-30-05 have been fully considered but they are not deemed to be persuasive for the following reasons.

In the REMARKS, the Applicant argues as follows:

A) That: "the Applicants respectfully submit that there is no disclosure or suggestion, in Heo of at least the feature of the claimed application information.....Fig. 5 merely indicates application information in b0-b7, but does not indicate whether or not audio stream recorded in the video data recording area contains audio data intermingled from different recording modes as one stream [original emphasis]."" [page 19, paragraph 1; REMARKS].

FIRST: Heo does show that video and audio data are in a single stream as pointed out and shown before.

SECOND: One of ordinary skill in the art also knows that it very difficult and practically impossible to keep video and audio different from each other because that will cause tracking problems and video will not track the audio output. So inherently one has to keep audio and video in the same track for synchronization purposes.

B) That; "Further, Heo does not disclose or suggest audio data intermingled from different recording modes as one stream." [page 19, paragraph 2; REMARKS].

See remarks above in section A).

And also table 6 on col. 6.

C) That; Claims 47-61 .." [page 20, paragraph 2; REMARKS].

See new allowance regarding these claims.

### **ALLOWABLE SUBJECT MATTER**

22. Claims 47-61 and 67-71 are allowed over the prior art of record.

NOTE: The closest prior art with concept of the mixed mode flag is Aoki et al. US 6,243,220. Even though Aoki describes a mode bit, this bit is not doing the same function as applicants mixed mode flag, that is if the audio are mixed as one stream or not.

23. Applicant's amendment necessitated the new grounds of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### **Contact Information**

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is 703-872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hoa Nguyen can be reached on (571) 272-7579.

Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.

  
**GAUTAM R. PATEL**  
**PRIMARY EXAMINER**

Gautam R. Patel  
Primary Examiner  
Group Art Unit 2655

December 22, 2005